

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:15-cv-00135-FDW

ROBERT H. JOHNSON,

Plaintiff,

v.

CINDY LNU, Nurse;
FNU WALKER, Dr.;
WATAUGA COUNTY
DETENTION CENTER,

Defendants.

ORDER

THIS MATTER is before the Court on an initial review of Plaintiff's *pro se* complaint that he filed pursuant to 42 U.S.C. § 1983. (Doc. No. 1). See 28 U.S.C. § 1915A(a). For the reasons that follow, Plaintiff's complaint will be dismissed.

Plaintiff is a pretrial detainee who is confined in the Watauga County Detention Center in Boone, North Carolina, and he is awaiting trial on a number of criminal charges. In his complaint, Plaintiff alleges that the defendants, who are allegedly employees at the Watauga County Detention Center, have denied him food and drink items that he ordered from the detention center's canteen. (5:15-cv-00135, Doc. No. 1 at 3). Plaintiff contends that other inmates are not denied such items from the canteen and he is being subjected to unlawful discrimination.

Section 1915(A)(a) provides, in relevant part, that "[t]he court shall review . . . a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity." Following this initial review the "court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted." Id. § 1915A(b)(1).

“To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.” West v. Atkins, 487 U.S. 42, 48-49(1988) (internal citations omitted).


Plaintiff does not contend that he is being discriminated against on the basis of any protected status – race, gender, national origin, religion – or that the denial of snacks is impairing his health. And in any event, the Court finds that the denial of snacks by one or more of the defendants does not violate any federally protected rights. Accordingly, the Court finds that Plaintiff has failed to state a claim upon which relief can be granted under § 1983 and his complaint will be dismissed.

IT IS, THEREFORE, ORDERED Plaintiff’s complaint is **DISMISSED**.

The Clerk is respectfully directed to close this civil case.

SO ORDERED.

Signed: November 19, 2015



Frank D. Whitney
Chief United States District Judge

